

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**LAQUISHA MOSLEY and NATALIE
MOSLEY,**

Plaintiffs,

v.

**GERBER LIFE INSURANCE
COMPANY,**

Defendant.

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C.A. NO. 6:20-cv-00760

NOTICE OF REMOVAL

Defendant Gerber Life Insurance Company (“Gerber”) files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and would show the Court as follows:

I. COMMENCEMENT AND SERVICE

1. On July 13, 2020, Plaintiffs Laquisha Mosley and Natalie Mosley (“Plaintiffs”) commenced this action against Gerber Life by filing Plaintiffs’ Original Petition (“Petition”) in the 69th Judicial District Court of Bell County, Texas, styled Cause No. 318,623-C, *Laquisha Mosley and Natalie Mosley v. Gerber Life Insurance Company*.¹

2. Gerber Life was served with service of process and Plaintiff’s Petition through its designated agent for service by certified mail on July 24, 2020.

3. This Notice of Removal is filed within thirty days of Gerber Life’s receipt of Plaintiffs’ Petition and within one year of the commencement of this action in accordance with 28 U.S.C. section 1446(b).

¹ See Exhibit A, Copy of Plaintiffs’ Original Petition.

II. GROUNDS FOR REMOVAL

4. Gerber Life is entitled to remove the entire state court matter to this Court pursuant to 28 U.S.C. § 1332(a). Section 1332(a) provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different states”

5. Removal of the entire state court matter to this Court is also proper under 28 U.S.C. §§ 1441(a) and 1446(a) because this Court’s district and division embraces the pending state court action in the 69th District Court, of Bell County, Texas.

6. Because the parties are completely diverse and the amount in controversy exceeds \$75,000 under 28 U.S.C. § 1332(a), Gerber is entitled to remove this case to this Court pursuant to 28 U.S.C. § 1441.

III. THE PARTIES ARE COMPLETELY DIVERSE

7. This is an action with complete diversity of citizenship between Plaintiffs and Gerber Life.

8. Upon information and belief, Plaintiffs are individuals domiciled in the state of Texas. Plaintiffs are therefore citizens of Texas within the meaning and intent of 28 U.S.C. § 1332.

9. Gerber Life is incorporated in the State of New York and has its principal place of business in White Plains, New York. Gerber Life is therefore a citizen of New York within the meaning and intent of 28 U.S.C. § 1332.

10. No change of citizenship has occurred since commencement of the state court action. Accordingly, diversity of citizenship exists between the proper parties.

IV. AMOUNT IN CONTROVERSY EXCEEDS \$75,000

11. Plaintiffs specify the amount of damages sought in their Petition as “monetary relief of more than \$100,000.”²

12. Accordingly, this Court has jurisdiction under 28 U.S.C. § 1332 because the amount in controversy exceeds \$75,000.

V. VENUE

13. Venue lies in the United States District Court for the Western District of Texas – Waco Division pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiffs filed the state court action in this judicial district and division.

VI. CONSENT TO REMOVAL

14. Because Gerber Life is the only defendant, all defendants join in and consent to this removal.

VII. NOTICE

15. Gerber Life will give notice of the filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Gerber Life will also file with the clerk of the state court, and will serve upon Plaintiffs’ counsel, a notice of the filing of this Notice of Removal.

VIII. JURY DEMAND

16. Plaintiffs have demanded a jury trial in the state court action.³

IX. STATE COURT PLEADINGS

17. Copies of all state court pleadings and orders are attached to this Notice of Removal. This case is being removed from the 69th District Court, of Bell County, Texas, 1201 West Huey Road, P.O. Box 909, Belton, Texas 76513.

² See Exhibit A at 1.

³ See Exhibit A at 6.

X. EXHIBITS TO NOTICE OF REMOVAL

18. The following documents are attached to this Notice as correspondingly lettered exhibits:

Exhibit A: Copy of Plaintiffs' Original Petition (with Discovery Request);
Exhibit B: Request for Issuance of Citation;
Exhibit C: Docket Sheet.

XI. CONCLUSION

WHEREFORE, Defendant Gerber Life Insurance Company, pursuant to the statutes cited herein and in conformity with the requirements set forth in 28 U.S.C. § 1446, removes this action from the 69th District Court, of Bell County, Texas to this Court.

Dated: August 21, 2020.

Respectfully submitted,

MCDOWELL HETHERINGTON LLP

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**ATTORNEYS FOR DEFENDANT GERBER
LIFE INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on this 21st day of August 2020, by E-mail to the following:

Mark S. Humphreys
Mark S. Humphreys, P.C.
702 Dalworth Street
Grand Prairie, Texas 75050

/s/ Jennifer H. Frank
Jennifer H. Frank